

# Exhibit 77:

## Nicole McGhee Deposition Transcript



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**Transcript of the Testimony of  
Nicole McGhee**

**Date:** June 13, 2023  
**Volume:**

**Case:** Does v Whitmer

Printed On: June 27, 2023

Nicole McGhee  
6/13/2023

FIRM #8093

<p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION</p> <p>JOHN DOES A, B, C, D, E, F, G, H, MARY DOE and MARY ROE, on behalf of themselves and all other similarly situated,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>CASE NO. 2:22-cv-10209 Hon. Mark A. Goldsmith Mag. Curtis Ivy, Jr.</p> <p>GRETCHEN WHITMER, Governor of the State of Michigan, and COL. JOSEPH GASPER, Director of the Michigan State Police, in their official capacities, Defendants.</p> <hr/> <p>ORAL DEPOSITION OF NICHOLE MCGHEE Via Zoom No. 880 9128 2834</p> <p>Tuesday, June 13, 2023 at 9:03 a.m.</p> <p>Reporter: Amanda Grosshans, CSR 3853</p> <p>TAKEN AT: Tri-County Court Reporters, Inc. 929 W. University Dr., Suite 302 Rochester, Michigan 48307</p> <hr/> <p>APPEARANCES: On Behalf of the Plaintiffs: AMERICAN CIVIL LIBERTIES UNION FUND OF MICHIGAN Attorneys at Law 1514 Wealthy SE, Suite 260 Grand Rapids, Michigan 49506 BY: DAYJA TILLMAN (P86526)</p> <p>Page 1</p>	<p>1 On Behalf of the Plaintiffs: 2 COOPERATING COUNSEL, AMERICAN CIVIL 3 LIBERTIES UNION FUND OF MICHIGAN 4 Attorneys at Law 5 802 Legal Research Building 6 801 Monroe Street 7 Ann Arbor, Michigan 48109-1215 8 BY: PAUL D. REINGOLD (P27594)</p> <p>9 On Behalf of the Defendants: 10 MICHIGAN DEPARTMENT OF ATTORNEY GENERAL 11 Attorneys at Law 12 825 W. Ottawa Street 13 Lansing, Michigan 48933-1067 14 BY: ERIC M. JAMISON (P75721)</p> <p>15 16 17 18 19 20 Present: Spl/F/Lt. Aimee Brimacomb &amp; Marian Elbakr 21 22 23 24 25</p> <p>Page 2</p> <p>1 Rochester, Michigan 2 Tuesday, June 13, 2023 3 9:03 a.m. 4 5 6 ***** 7 8 9 REPORTER: We are going on the record. My name is 10 Amanda Grosshans. I am a notary public for the county of 11 Macomb. I'm a certified shorthand reporter for the state 12 of Michigan. 13 This examination under oath is being held via 14 videoconferencing equipment. The witness and reporter are 15 not in the same room. The witness will be sworn in 16 remotely, pursuant to agreement of all parties. The 17 parties stipulate that the testimony is being given as if 18 the witness were sworn in person. 19 So could the witness please raise her right hand? 20 21 NICOLE MCGHEE 22 23 the witness hereinbefore named, being first duly cautioned and 24 sworn or affirmed to tell the truth, the whole truth, and 25 nothing but the truth, was examined and testified as follows:</p>
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<p>1 MR. REINGOLD: Good morning everyone. My name is      2 Paul Reingold, I'm an ACLU Cooperating Attorney      3 representing the plaintiffs in the case of Does v Whitmer.      4      5 We're conducting a deposition on June 13, 2023 by Zoom      6 pursuant to Rule 30(b)(6) notice of the Federal Rules of      7 Civil Procedure, for all purposes permitted under the      8 Rules.</p>	<p>1 and you will be answering. If you don't understand a      2 question, you should let me know and I'll rephrase it. If      3 you answer a question, we'll assume that you understood it.      4 Do you understand that?</p>
<p>9      10 EXAMINATION</p>	<p>5 A. Yes.</p>
<p>11 BY MR. REINGOLD:</p>	<p>6 Q. Okay. Also we have to answer questions in words. The      7 court reporter can't take down head shakes and uh-huh's, so      8 keep that in mind. And also the court reporter can't take      9 down two people at once, so we should try not to talk over      10 each other if we can avoid it. I'm going to ask you to      11 kind of limit your answers to the questions that I ask. If      12 you have more to say, your lawyer may have some questions      13 for you when I'm done. You can also take a break whenever      14 you want. I just ask that you answer any pending question      15 before doing so.</p>
<p>16 Q. Is it okay if I call you Ms. McGhee?</p>	<p>16 I also need to ask you if you are on any medications,      17 or using any alcohol, or drugs that would impair your      18 ability to tell us what you know today?</p>
<p>19 A. Yeah, absolutely.</p>	<p>19 A. No.</p>
<p>20 Q. Okay. I just want to start with a few preparatory sort of      21 rules of the road. The purpose of depositions is to help      22 the parties resolve factual disputes and basically transfer      23 knowledge that's in your head and not in mine by the move      24 of information from one side to the other.</p>	<p>20 Q. Okay. That's a good start. All right. This deposition I      21 don't expect will take a lot of time. It's a pretty narrow      22 area that I will be inquiring about. But let me start by      23 just by asking what you did to prepare for today's      24 deposition, if anything?</p>
<p>25 Have you ever been deposed before?</p>	<p>25 A. Yeah. I reviewed some old, old emails and some of the</p>
<p>1 A. No, I have not.</p>	<p>1 Page 5</p>
<p>2 Q. Have you testified in court when you were a line officer?</p>	<p>2 Page 6</p>
<p>3 A. Yes.</p>	<p>3</p>
<p>4 Q. Okay. So you probably know these rules of the road, but</p>	<p>4</p>
<p>5 I'll review them with you anyway. I'll be asking questions</p>	<p>5</p>
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<p>1 A. Yes.</p> <p>2 Q. And who was that?</p> <p>3 A. That was First Lieutenant Timothy Fitzgerald.</p> <p>4 Q. Who was the other person that worked with you?</p> <p>5 A. That was Sergeant -- when I first got there we're talking about though?</p> <p>6 Q. Yes.</p> <p>7 A. To be clear. Okay. That was Sergeant Chris Gerard.</p> <p>8 Q. And is Chris Gerard a man or woman?</p> <p>9 A. A man.</p> <p>10 Q. A man. Okay. And had he been there for a while before you got there or did he come in around the same time?</p> <p>11 A. He had been there for a couple of months.</p> <p>12 Q. And among the three of you, when you got there, let's see, was that in June of 2019?</p> <p>13 A. That was when I promoted, yes.</p> <p>14 Q. Okay. So you had been there for a couple of months before that?</p> <p>15 A. Yes.</p> <p>16 Q. As a temporary employee?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And when you got there, did the three of you have distinct roles?</p> <p>19 A. Yes.</p> <p>20 Q. And can you describe what your role was and then compare it</p>	<p>1 to what the others were doing?</p> <p>2 A. So my role was to focus on small policy things, being that</p> <p>3 I was so new, and reviewed those with First Lieutenant</p> <p>4 Fitzgerald, and then he handled the larger policy issues</p> <p>5 and the appropriations.</p> <p>6 Q. All right. And what about Chris Gerard?</p> <p>7 A. Chris was kind of in the middle, he didn't handle the</p> <p>8 appropriations, that was on strictly on First Lieutenant</p> <p>9 Fitzgerald. Chris helped with me, I kind of shadowed Chris</p> <p>10 the learned from Chris, learned the policy role. Chris</p> <p>11 also dealt with some policy stuff.</p> <p>12 Q. All right. Can you describe your, how your primary</p> <p>13 responsibilities changed over the time that you were there</p> <p>14 from, would have been probably April or May of 2019 until</p> <p>15 you left in February of '22?</p> <p>16 A. Yes. So starting out as the, what we would call the junior</p> <p>17 sergeant, I was newer than Chris was. It kind of followed</p> <p>18 the natural progression of taking on some smaller bills,</p> <p>19 you know, learning the ropes, learning how the legislative</p> <p>20 process worked, and then working on things more, in a more</p> <p>21 complex level as I became the senior sergeant in the</p> <p>22 position.</p> <p>23 Q. And did you become the senior sergeant because he left?</p> <p>24 A. Yes. Eventually, eventually Chris did.</p> <p>25 Q. And was he replaced or did the office go down to two</p>
<p style="text-align: center;">Page 9</p> <p>1 people?</p> <p>2 A. He was replaced.</p> <p>3 Q. All right. And is his replacement still working in</p> <p>4 government relations?</p> <p>5 A. Yes.</p> <p>6 Q. And who is that?</p> <p>7 A. That is Sergeant Travis Fletcher.</p> <p>8 Q. And what about Lieutenant Fitzgerald, did he, for how long</p> <p>9 did he stay?</p> <p>10 A. I believe he retired in, I believe it was 2020.</p> <p>11 Q. And was he replaced with a new first lieutenant or did --</p> <p>12 you tell me?</p> <p>13 A. He was replaced.</p> <p>14 Q. And who took over his job?</p> <p>15 A. First Lieutenant Mackie Williams.</p> <p>16 Q. And was he there until you left in February of 2022?</p> <p>17 A. Yes.</p> <p>18 Q. All right. And how did it come about that someone who had</p> <p>19 not been in the office, as it were, leaped over you and</p> <p>20 Sergeant Fletcher to run it?</p> <p>21 A. I replaced First Lieutenant Williams when he left the</p> <p>22 section in 2019.</p> <p>23 Q. Okay. I'm not sure I understand. So you were promoted</p> <p>24 again?</p> <p>25 A. No. I was a sergeant at that time.</p>	<p style="text-align: center;">Page 10</p> <p>1 Q. Okay. All right. All right. And when Lieutenant</p> <p>2 Fitzgerald left, explain to me who replaced him? I'm not</p> <p>3 sure I understood.</p> <p>4 A. So when I joined the section in 2019, I replaced First</p> <p>5 Lieutenant Matt Williams who had just promoted out of the</p> <p>6 section at the time. And then when First Lieutenant</p> <p>7 Fitzgerald retired, First Lieutenant Williams came back.</p> <p>8 He promoted to that position in the section.</p> <p>9 Q. I understand. Okay. So he had been there, he left, and</p> <p>10 then he returned?</p> <p>11 A. Yes.</p> <p>12 Q. That makes sense. And was he still the first lieutenant</p> <p>13 when you left in February of 2022?</p> <p>14 A. Yes.</p> <p>15 Q. And then I take it he left and that's when you came back?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. All right. And why was it that you chose to leave</p> <p>18 to go to the Internal Affairs Unit?</p> <p>19 A. Was a career progression.</p> <p>20 Q. So that was basically a promotion?</p> <p>21 A. Yes. It was a promotion.</p> <p>22 Q. And again, was that one that you applied for, or is that</p> <p>23 one that they wanted you to do?</p> <p>24 A. I applied for it.</p> <p>25 Q. Okay. And why did you return?</p>

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<p>1     <b>A.</b> It was another promotion, a career progression, a natural 2     career progression for me.</p> <p>3     <b>Q.</b> Yeah. Okay. All right. And what's different about 4     running the office, what you have been doing since August 5     of 2022?</p> <p>6     <b>A.</b> As the section commander, I worked on the department budget 7     in our appropriations, which is vastly different than I did 8     before. And I oversee the two sergeants and kind of keep 9     an eye on all of the policy going on. I handle some of the 10    larger scale issues, if you will, as they come.</p> <p>11    <b>Q.</b> When you're dealing with appropriations, earlier in the 12    case, we had deposed the person, I believe it is Sergeant 13    Hoffman who runs enforcement unit out of SORA, or relating 14    to SORA. And it was somewhat striking, because that was 15    the unit that used to have five or six slots, and is now 16    reduced to one. Is that the kind of issue that you deal 17    with in doing appropriations?</p> <p>18    <b>A.</b> If the, if the executive recommendation asked for more 19    employees, yes.</p> <p>20    <b>Q.</b> All right. And when you say the executive recommendation, 21    that's from the Michigan State Police to the legislature?</p> <p>22    <b>A.</b> To the state budget office.</p> <p>23    <b>Q.</b> To the budget office. Okay. And who is the executive 24    committee who makes the executive recommendation?</p> <p>25    <b>A.</b> The governor does.</p>	<p>1     <b>Q.</b> How does the governor know which slots the Michigan State 2     Police wants to get funding for?</p> <p>3     <b>A.</b> The governor works that out with the state budget office.</p> <p>4     <b>Q.</b> I'm asking how the Michigan State Police prioritizes what 5     it wants, what positions it wants filled or left vacant?</p> <p>6     <b>A.</b> I am not part of those decisions.</p> <p>7     <b>Q.</b> Okay. Do you know who makes those decisions?</p> <p>8     <b>A.</b> No, I don't.</p> <p>9     <b>Q.</b> Okay. All right. So during the period that you were there 10    from roughly the, maybe early spring of 2019, to February 11    of 2022, that was a period during which there was a fair 12    amount of activity around the Sex Offender Registration 13    Act, right?</p> <p>14    <b>A.</b> Not that I was involved in.</p> <p>15    <b>Q.</b> Oh. You were not involved in it then?</p> <p>16    <b>A.</b> In the spring of '19?</p> <p>17    <b>Q.</b> In the spring and summer of 2019.</p> <p>18    <b>A.</b> No.</p> <p>19    <b>Q.</b> Okay. When did your involvement start?</p> <p>20    <b>A.</b> It really never did.</p> <p>21    <b>Q.</b> Okay. Just to be clear, so even though you were in the 22    governmental relations unit from the spring of 2019 to 23    February of '22, you didn't have any connection to the, or 24    do any government relations work relating to either the 25    decline of the old SORA or the passage of the new SORA?</p>
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<p>1     <b>A.</b> Correct.</p> <p>2     <b>Q.</b> I'm not sure why you are here then.</p> <p>3        MR. JAMISON: I'm going to object to the question.</p> <p>4        It's a 30(b)(6) deposition, and from what I understand</p> <p>5        under 30(b)(6) the department offers someone that can get</p> <p>6        reasonably prepared to discuss the topics that were</p> <p>7        identify on the 30(b)(6).</p> <p>8        MR. REINGOLD: All right. Objection is noted.</p> <p>9     <b>Q.</b> (Continuing by Mr. Reingold:) Let me ask, who was taking 10    the lead on either the shutting down of the old SORA or the 11    negotiations over a new SORA?</p> <p>12    MR. JAMISON: Object to the question, it is as 13    vague.</p> <p>14    MR. REINGOLD: You can answer.</p> <p>15    MR. JAMISON: If you understand the question, you 16    can answer.</p> <p>17    <b>A.</b> I don't.</p> <p>18    <b>Q.</b> (Continuing by Mr Reingold:) All right. What's your first 19    knowledge about there being a change in the SORA?</p> <p>20    <b>A.</b> That there was a lawsuit filed and there were provisions 21    that were found to be unconstitutional.</p> <p>22    <b>Q.</b> And when did you understand that?</p> <p>23    <b>A.</b> When I got to the section in 2019.</p> <p>24    <b>Q.</b> Okay. And what was your understanding of about what either 25    the Michigan State Police or the legislature was going to</p>	<p>1        do about that issue?</p> <p>2     <b>A.</b> There was a bill introduced to attempt to resolve the 3        constitutional issues.</p> <p>4     <b>Q.</b> Do you remember when the bill was introduced?</p> <p>5     <b>A.</b> I believe it was introduced in '19.</p> <p>6     <b>Q.</b> I think that's right, I think late in '19. And before 7        that, were you aware that Lieutenant Fitzgerald was 8        participating in a legislative work group that was trying 9        to hash out a possible new statute?</p> <p>10    <b>A.</b> Yes.</p> <p>11    <b>Q.</b> And did he talk at all about the progress of about that 12    work group?</p> <p>13    <b>A.</b> If he did, I don't remember the specifics of, of what was 14    happening.</p> <p>15    <b>Q.</b> Okay. During the same period of time, were there other 16    statutes that you were working on that were your primary 17    responsibility?</p> <p>18    <b>A.</b> Yes.</p> <p>19    <b>Q.</b> And what were some of those?</p> <p>20    <b>A.</b> I believe speed limits was one of them. I can't recall 21    them all off the top of the head. But there were a of 22    number things that I was trying to learn at the time.</p> <p>23    <b>Q.</b> All right. When you're doing that, does it involve meeting 24    with legislators, or legislator liaisons who worked in the 25    House or the Senate?</p>
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<p>1 A. When working on legislation?</p> <p>2 Q. Yes.</p> <p>3 A. Yes.</p> <p>4 Q. And can you explain how that process works? Let's take</p> <p>5 speed limits as an example, just because it's one that you</p> <p>6 know about. How does it get started and what happens over</p> <p>7 time?</p> <p>8 A. It is completely on a case by case basis.</p> <p>9 Q. Let's use speed limits as an example.</p> <p>10 A. Working on the speed limit bill?</p> <p>11 Q. Yes.</p> <p>12 A. I spoke with the sponsor of the bill, and state holders on</p> <p>13 the bill, and worked on language.</p> <p>14 Q. All right. And how do you know, in your position in</p> <p>15 government relations, what the MSP's wishes for the bill</p> <p>16 are going to be?</p> <p>17 A. It's done on completely case by case basis.</p> <p>18 Q. And how do you figure that out on a case by case basis,</p> <p>19 whom do you talk to?</p> <p>20 A. It depends on the area that the bill is covering.</p> <p>21 Q. All right. In the case of SORA, if SORA were coming up</p> <p>22 right now for amendments, whom would you talk to?</p> <p>23 A. I would have to talk to our legal section.</p> <p>24 Q. Yeah.</p> <p>25 A. The SOR unit, the Sex Offender Registry unit, and the</p>	<p>1 governor's office.</p> <p>2 Q. And when you are doing that, who is it that is actually</p> <p>3 setting the policy, you know, basically giving the thumbs</p> <p>4 up or the thumbs down, to provision in the bill, or the</p> <p>5 provisions in the proposed bill?</p> <p>6 A. That's on a case by case basis as well.</p> <p>7 Q. I'm asking, who has the authority to make the decision?</p> <p>8 A. That depends.</p> <p>9 Q. And what does it depend on?</p> <p>10 A. A number of things related to the bill.</p> <p>11 Q. All right. In the case of SORA, you may recall that when</p> <p>12 the new SORA bill was introduced, it included a provision</p> <p>13 that the courts had already held to be unconstitutional,</p> <p>14 and that was the school geographic exclusion zones. So if</p> <p>15 you were working on the SORA bill, and you got a draft of</p> <p>16 the new bill, and you saw the school geographic exclusion</p> <p>17 zones, how would you know whether that's something that the</p> <p>18 Michigan State Police wants to keep in the bill or excise</p> <p>19 from the bill?</p> <p>20 A. Are you referencing a future hypothetical bill or the last</p> <p>21 actual bill.</p> <p>22 Q. If you know, the last actual bill, if you don't, a future</p> <p>23 hypothetical bill.</p> <p>24 A. Okay. I was not involved in the previous bill. I don't</p> <p>25 know how those conversations occurred.</p>
<p style="text-align: center;">Page 17</p> <p>1 Q. So then hypothetically, if you had been, or you were in the</p> <p>2 future, the bill comes in, you read, I assume you read it,</p> <p>3 that's one of the first things you do?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And then you have got to figure out what's good for</p> <p>6 us, what's bad for us, what do we want. And can you</p> <p>7 describe how you go through that process, before we go</p> <p>8 through that process with a hypothetical new SORA or</p> <p>9 amended SORA?</p> <p>10 A. I would put that bill in front of our legal team, and in</p> <p>11 front of the Sex Offender Registry Unit and get their</p> <p>12 feedback. And then I would take that feedback to the</p> <p>13 governor's office in order to determine an official</p> <p>14 position.</p> <p>15 Q. All right. And when you're doing that with the governor's</p> <p>16 office, is that a negotiation, or are you told what the</p> <p>17 governor wants to do and then have to do it?</p> <p>18 A. When I give them that information?</p> <p>19 Q. In the conversations.</p> <p>20 A. They will, we will consult with them and give them our</p> <p>21 feedback. And from there, we will determine an official</p> <p>22 position.</p> <p>23 Q. Who in the governor's office would you be working with</p> <p>24 on something like that?</p> <p>25 A. That's on a case by case basis.</p>	<p style="text-align: center;">Page 18</p> <p>1 Q. I'm saying for a hypothetical SORA.</p> <p>2 A. Probably involved the legal and the policy team.</p> <p>3 Q. In the governor's office?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And when you're referring to your legal department,</p> <p>6 is that the MSP's in-house legal department?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. In those negotiations, whether gathering information</p> <p>9 to figure out what your own people want while working with</p> <p>10 the governor's office, who has to, again, with a</p> <p>11 hypothetical SORA, who has to sign off on the MSP position</p> <p>12 before it goes to the governor?</p> <p>13 A. It's a case by case basis.</p> <p>14 Q. With a law like SORA?</p> <p>15 A. Whoever is working on it.</p> <p>16 Q. So that means people from the SORA unit is what you're</p> <p>17 saying?</p> <p>18 A. No.</p> <p>19 Q. They would not have to sign off on it?</p> <p>20 A. No.</p> <p>21 Q. Okay. And why is that?</p> <p>22 A. Because they are providing input.</p> <p>23 Q. All right. So what I'm asking is, to whom is that input</p> <p>24 going?</p> <p>25 A. To the government relations section.</p>

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<p>1 Q. And when you say the government relations section, there's 2 only three of you, and it sounds like only one of you would 3 be shepherding a single bill; is that right? 4 A. Yes. Well, most of time, yes. 5 Q. Okay. So when you say government relations, if you're in 6 charge and you're the ones who is shepherding SORA, it 7 would go to you? 8 A. If the case was the one I was working on it? 9 Q. Yes. That's what we are assuming for the purposes of the 10 hypothetical and just keep assuming that. 11 All right. So if you went to the SORA unit, and they 12 expressed their preferences and concerns, and they 13 expressed them to you as governmental relations, and you're 14 basically the grease that's going to make this work, to 15 whom do you take those unit preferences? 16 A. I don't understand the first part of that. 17 Q. What I'm saying is, you said to me that what you do is you 18 would go to the unit, in effect to get their, you know, 19 basically to get a pulse on how they feel about the bill, 20 and I assume there's going to be things that they like and 21 don't like; is that right? 22 A. Yes. 23 Q. Okay. And then they meet amongst themselves, they may have 24 their own internal preferences, they will hash that out and 25 basically it sounds like they will then say to you, here's</p>	<p>1 what we would like to see in it, and here is what we would 2 like to see taken out of it; is that right? 3 A. I don't know what internal preferences the sex registry 4 unit has, but eventually feedback will be received. 5 Q. Okay. I actually, from what we can tell, I don't actually 6 know if any anybody consulted with them. My understanding 7 is from previous deps that nobody did. Would that surprise 8 you? 9 A. I wasn't involved, so I don't know. 10 Q. Okay. But normally you're saying the unit that's most 11 affected would be consulted and their opinions asked? 12 A. You're talking about the normal, and we were talking about 13 a hypothetical. It's truly on a case by case. If I wasn't 14 involved in that conversation, I don't know what would have 15 happened or should have happened before. 16 Q. Okay. When you were working on the speed limit bills, was 17 there a unit that you went to that was going to be most 18 affected by speed limits so that you got input from? 19 A. I went to the traffic crash reconstruction unit. 20 Q. And that makes perfect sense. And any other bills that you 21 handled were there always, or almost always, units that you 22 could go to get opinions and views of those who might be 23 closest to the issue that was going to be addressed in 24 independent legislation? 25 A. It's on a case by case basis.</p>
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<p>1 Q. Well, I'm just asking, most of the time is there someone 2 you can actually talk to? 3 A. If it's necessary. 4 Q. What I'm trying to understand, why would it not be always a 5 good idea to get the input of the people who are closest to 6 the issue that the bill addresses? 7 A. Because sometimes on issues like penalties, we wouldn't 8 have anybody to get involved in that. 9 Q. Okay. So that's an example where it wouldn't occur. But a 10 bill like SORA, there's a special SORA unit, right? 11 A. There is a SORA unit, yes. 12 Q. Yeah. And its only job is to implement the statute? 13 MR. JAMISON: Objection, lack of foundation. 14 Q. (Continuing by Mr. Reingold:) You may answer. I'll 15 rephrase. Its primary job is to implement the statute? 16 A. I don't work in the sex registry unit. 17 Q. But you said that if you were, hypothetically, the person 18 in the government relations who were shepherding a new SORA 19 through the legislative process, the first thing you would 20 do is go to the SORA unit and try to source out their 21 views? 22 A. That would be a logical step for me to take with the 23 exception of the legal team. 24 Q. Yeah. Okay. What I'm trying to understand now is, once 25 the information comes back to you, I assume, just because</p>	<p>1 they want something, doesn't mean that's what you're going 2 to report to the governor; is that true? 3 MR. JAMISON: Objection, it's vague as to who 4 "they" refers to. 5 MR. REINGOLD: I'll rephrase. 6 Q. (Continuing by Mr. Reingold:) Just because the SORA unit 7 gives you its views, I assume you're not simply just going 8 to run out to the governor's office and say, this is what 9 the Michigan State Police want; is that right? 10 A. Completely depends on the issue. 11 Q. Well, something as major as a renovation, or not a 12 renovation, an amendment to, to a law like SORA, there's 13 somebody else that you would need to talk to before you 14 could make a recommendation to the governor; isn't that 15 correct? 16 A. Are you referring to the SOR unit. 17 Q. I'm asking you. I'm trying to understand how it is that 18 policy gets made in the Michigan Department of State 19 Police, and has remained okay, and at the moment, it's not 20 getting any clearer, and that's what I'm trying to 21 determine. 22 Who is it that makes the decision as to what it is 23 that they are going to ask the governor, or report to the 24 governor, what the official MSP position is on the 25 provisions of the bill, what says and what goes, or what</p>
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<p>1       they would like to stay or like to go, who makes that  2       decision?</p> <p>3       <b>A.</b> That is done on a case by case basis.</p> <p>4       <b>Q.</b> On this case by case basis, with a hypothetical SORA, who  5       would you go to before going to the governor?</p> <p>6       <b>A.</b> On the hypothetical bill that I am working on?</p> <p>7       <b>Q.</b> Yes. Related to SORA.</p> <p>8       <b>A.</b> I would consult with the legal team and the SOR unit.</p> <p>9       <b>Q.</b> All right. So nobody else?</p> <p>10      <b>A.</b> It would depend on the feedback given from them.</p> <p>11      <b>Q.</b> Can you elaborate on that, how so, how and why would it  12       depend on that?</p> <p>13      <b>A.</b> Because in every single case is different, and every single  14       word in a bill is different, and if a word triggers the  15       need to contact somebody else, then we will do that.</p> <p>16      <b>Q.</b> All right. Does anyone else in the department review what  17       you're taking to the governor, other than the unit  18       involved, if there is a unit involved, and the internal  19       legal team?</p> <p>20      <b>A.</b> That's done on a case by case basis.</p> <p>21      <b>Q.</b> And using SORA as an example, do you know if anybody else  22       was consulted, or if you were doing it now, would you  23       consult anybody else before bringing it to the governor?</p> <p>24      <b>A.</b> I have no idea who was consulted on the previous bill. I  25       was not involved in those discussions. And the</p>	<p>1       hypothetical bill we're talking about, that would  2       completely depend on what the bill actually said.</p> <p>3       <b>Q.</b> Let's assume it says, everything that was in the proposed  4       SORA that you read for first time in late 2019, and let's  5       assume that's our hypothetical. That you were in charge of  6       bringing recommendations from the department to the  7       governor on that precise bill. And let's assume that, as I  8       believe occurred, for whatever reason, you didn't check  9       with the SORA unit, or the SORA unit was not invited to  10       comment on it, how would you know what the Michigan  11       Department of State Police wanted from, wanted to recommend  12       to the governor, who would you talk to?</p> <p>13      <b>A.</b> Our legal team would be helpful in that situation.</p> <p>14      <b>Q.</b> All right. So the legal team would in effect set the  15       policy for the Michigan Department of State Police?</p> <p>16      <b>A.</b> No.</p> <p>17      <b>Q.</b> I thought what you were going to recommend to the governor  18       would be the legal policy that the -- not the legal policy,  19       but the policy that the Department of State Police is  20       asking the governor to implement, is that wrong?</p> <p>21      <b>A.</b> I'm kind of confused on the term policy. Are we talking  22       like a true like written policy?</p> <p>23      <b>Q.</b> No, no. I'm talking about what would be in the bill. What  24       I'm trying to understand, I said this once before, and I  25       don't mean to be sharp with you at all. But it's</p>
<p style="text-align: center;">Page 25</p> <p>1       completely I opaque. It seems to me that somebody is  2       making decisions at the Michigan State Police, and you're  3       telling me that the Government Relations Department, who  4       shepherds these things through, gathers information,  5       consults with legal, might consult with a section or a unit  6       if there is a relevant section or unit to consult with, and  7       it's not clear to me how that group of people reaches a  8       decision without any input from someone higher in the  9       department than the positions that the legal department  10       holds and you hold.</p> <p>11       Is there any sign-off by anybody above the legal  12       department, or above government relations, as to what you  13       want in a bill?</p> <p>14      <b>A.</b> That is done on a case by case basis.</p> <p>15      <b>Q.</b> Sorry. I didn't mean to interrupt. Go ahead.</p> <p>16      <b>A.</b> No, go ahead.</p> <p>17      <b>Q.</b> You said the conversations. So you can finish the  18       sentence.</p> <p>19      <b>A.</b> Yeah. We have those conversations with the executive  20       office of the governor.</p> <p>21      <b>Q.</b> Are there any conversations held with executive officers of  22       the Michigan Department of State Police?</p> <p>23      <b>A.</b> What's your -- what do you mean by executive officers?</p> <p>24      <b>Q.</b> I mean anybody involved, the director of, or the first  25       lieutenant for government relations and in-house legal</p>	<p style="text-align: center;">Page 26</p> <p>1       counsel?</p> <p>2      <b>A.</b> On specific legislation?</p> <p>3      <b>Q.</b> Yes. Like on SORA.</p> <p>4      <b>A.</b> I don't know. I wasn't involved in those conversations.</p> <p>5      <b>Q.</b> So let me give you a hypothetical. Let's assume you go to  6       the SORA unit, and the SORA unit says, we hate SORA, we  7       think it's a complete waste of time, and we want you to  8       tell the governor that she should kill SORA completely.  9       And you go to legal, and legal says, the statutes, in our  10       view, are constitutional. How do you know what to ask the  11       governor to do with the bill at that point? You had input  12       from the unit that's most concerned, you have had input  13       from legal that tells you it is legal, how do you know what  14       the position is, or the position of the Michigan State  15       Police is, when you go into the governor, to tell the  16       governor what it is that the Michigan State Police want?</p> <p>17      <b>A.</b> I think that would completely depend on what the actual  18       language in the bill is.</p> <p>19      <b>Q.</b> Well, I'm saying the SORA unit says, we hate all of it, we  20       don't want it to be passed, but we want SORA to go away, we  21       are unhappy with every word of the statute. Do you go to  22       the governor and say, that's the policy, that that's the  23       premise of the Michigan State Police, or do you talk to  24       somebody else?</p> <p>25      <b>A.</b> Is the somebody else the legal team?</p>

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<p>1 Q. No. I mean in addition to the legal team. We know that 2 the legal team has said it is legal.</p> <p>3 A. Okay.</p> <p>4 Q. So I'm just asking, how do you, you arrive at the 5 governor's office, how do you know what to say?</p> <p>6 A. I would just tell them that information, communicate that 7 to them.</p> <p>8 Q. Okay. So there's no higher up who determines policy, 9 within the department, there's no higher up who determines 10 policy or preferences as to a bill, you are just a 11 messenger that conveys the information from whoever you 12 talk to?</p> <p>13 A. It's on a case by case basis depending on the bill.</p> <p>14 Q. And in the hypothetical that I've just given you, you 15 wouldn't talk to anybody else in the department, you would 16 simply go to the governor and say, I talked to the SORA 17 unit, they hate it, they want you to kill it, and there's 18 no language that will improve it, and that's what I'm 19 telling you, and legal says it's legal?</p> <p>20 A. I would say that some further discussion needed to be done.</p> <p>21 Q. And with whom would the further discussions be had?</p> <p>22 A. The SOR unit and the legal team.</p> <p>23 Q. In the end, is it the legal team in your view that sets MSP 24 policy?</p> <p>25 MR. JAMISON: Objection, it's vague.</p>	<p>1 Q. (Continuing by Mr. Reingold:) You can answer. 2 MR. JAMISON: If you understand the question, you 3 can answer.</p> <p>4 A. I don't.</p> <p>5 Q. (Continuing by Mr. Reingold:) Let's assume you didn't go 6 to the SORA unit at all, as we think happened here in 7 reality in this case, if you just went to the legal team, 8 and the legal team decided, this is what we want, is that 9 what you report to the governor?</p> <p>10 A. Barrling any other information, yes, I would communicate 11 what I knew to the governor's office.</p> <p>12 Q. And in this hypothetical, you know that what legal wants is 13 the opposite of what the officers on the ground, and the 14 enforcement unit, and implementation unit, the SORA unit 15 wants. How do you know which to choose between?</p> <p>16 A. That's on a case by case basis.</p> <p>17 Q. And in this hypothetical, in this case, on this case by 18 case basis, how would you know which position to favor when 19 you go to the governor?</p> <p>20 A. There's no favoring. It's determining parts of the bill 21 and then reviewing those on a case by case basis.</p> <p>22 Q. All right. Let's assume that there's a change in the 23 language on the bill, for whatever reason, a single change 24 in language. Who would in the department, who at the 25 Michigan State Police determines whether or not to accept</p>
<p style="text-align: center;">Page 29</p> <p>1 the change of the language?</p> <p>2 MR. JAMISON: Objection, it's vague. Sorry. The 3 question is vague in terms of what accepts means. You can 4 answer, if you understand the question.</p> <p>5 A. It's done on a case by case basis.</p> <p>6 Q. (Continuing by Mr. Reingold:) I'll rephrase the question 7 for you. Let's assume again it's the SORA bill. Okay. 8 And let's hypothetically assume that it's, any bit of 9 language in the bill, that is substantive, that actually 10 matters. And at some point, you learn that the next 11 version of the bill is going to change, one word that will 12 change the meaning of an important provision. What do you 13 do with that proposed amendment?</p> <p>14 A. Is this the hypothetical SORA bill or the actual SORA bill?</p> <p>15 Q. The hypothetical.</p> <p>16 A. The hypothetical SORA bill?</p> <p>17 Q. Yes. There is a proposed amendment coming either from the 18 legislature, or from the governor's office, or from God, 19 and you have to bring it back to the department. Do you 20 need someone to approve the change?</p> <p>21 A. The change in what?</p> <p>22 Q. In the bill.</p> <p>23 A. I don't have any control over what changes are made in a 24 bill.</p> <p>25 Q. I'm saying, it hasn't been made yet. There's a proposed</p>	<p style="text-align: center;">Page 30</p> <p>1 change, the governor's office, or the legislature, or 2 someone else has said, in light of -- we're going to make a 3 compromise, in light of the different parties who have 4 referred to us, and weighed in on this bill, we are going 5 to change, you know, a couple of words that will change the 6 meaning of a provision in a significant way. What is the 7 MSP's position on the change, how do you find out what the 8 MSP's position is on the change?</p> <p>9 A. We consult with whoever that change impacts.</p> <p>10 Q. All right. In this hypothetical, it would impact the SORA 11 bill.</p> <p>12 A. Okay.</p> <p>13 Q. Right, is that right?</p> <p>14 A. In your hypothetical?</p> <p>15 Q. Yes. Assuming it does, it would impact the SORA unit, so 16 it's their approval that you need?</p> <p>17 A. Not necessarily need. I would ask them how it impacts 18 them.</p> <p>19 Q. All right. And then you were communicating that to the 20 governor's office, whether they like it or they don't?</p> <p>21 A. On a case by case basis discussions are had.</p> <p>22 Q. And who has those discussions?</p> <p>23 A. Whoever is working on the bill in that case.</p> <p>24 Q. And who, so tell me the personalities, who are the people 25 who would, on any case by case basis, have that discussion?</p>
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<p>1     A. The members of the government relations section.      2     Q. But you said only one person has anything to do with that,      3       are you talking to yourself?      4     A. No.      5     Q. Well, then who are you talking to?      6     A. I guess I'm confused.      7     Q. You said discussions are had, and I said, who would be the      8       discussions, who is actually having the conversation, and      9       you said, government relation. And you said, only one      10      person has anything to do with the bill, and I don't      11      understand how you can talk to others if they have nothing      12      to do with the bill. So who is having the discussions?      13     A. That member from government relations who is working on the      14      bill will have discussions with internal members in the      15      governor's office.      16     Q. But you already had the discussion. The discussion was,      17      we're going to change the provision in the bill that will      18      affect the SORA unit, and has made a substantive change as      19      part of a compromise. So that discussion has already been      20      had. Now you're bringing that proposed change back to the      21      MSP to figure out whether or not you're going to agree to      22      it, or oppose it. And you're telling me you talk to      23      yourself, and if that's wrong, to whom do you speak?      24     A. I guess I'm kind of --      25     MR. JAMISON: Objection, it mischaracterizes her</p>	<p>1       testimony.      2     Q. (Continuing by Mr. Reingold:) You may answer.      3     A. I'm confused.      4     Q. What are you confused about?      5     A. Which hypothetical discussions are happening when.      6     Q. I'll repeat the hypothetical. The governor's office says      7       to you, we're going to change a provision of the bill.      8       It's a substantive change, it will have an affect on the      9       SORA unit. You said to me you would bring that back and      10      have discussions. I said, with whom, and you said      11      government relations. I want to know how you know whether      12      to tell the governor's office the next time you go back,      13      yes, we're on board with the change, or no, we are not on      14      board with the change. How does that decision get made?      15      That's policy in my view, and I want to know, who is making      16      that policy. Because if you go with option A, the policy      17      will be one thing, and if you go with option B, the policy      18      will be a different thing, and I want to know who makes      19      that decision as to which way you are going to go.      20     A. I guess what I'm not clear on is why that information is      21      coming from, in your hypothetical, from the governor's      22      office. Because bills are made by the legislative sponsor.      23     Q. We can have it anyway you want. But you have told me that      24      there are conversations that happen while a bill is      25      pending, and changes get made. And I said, whether it gets</p>
<p style="text-align: center;">Page 33</p> <p>1       made by the legislature, or because of the wishes of other      2       interested people, it might be the Prosecutor's      3       Association, or it might be coming from the governor's      4       office. A change is proposed by those who are interested.      5       And the MSP is unaware of this, because the only person who      6       knows about the proposed change is you, having talked to      7       the governor's office, and now you know it, and you have to      8       bring it back to the department to get a thumbs up or      9       thumbs down as to the change. And I'm trying to understand      10      who makes that decision as to what the policy of the MSP      11      will be in relation to that change of the proposed statute.      12      Is that clear?      13     A. A little more clear. The word policy is kind of jamming me      14      up, but the recommendation is what I would call it.      15     Q. Yes. The recommendation, exactly.      16     A. So those discussions, whatever amendment to a bill would be      17      taken back to whoever those amendments impact. And we      18      would get feedback from them and provide, I would then      19      provide, in your hypothetical, I would then provide that      20      information to the governor's office and say, here is the      21      feedback, here are the impacts of what that language does.      22     Q. And can you explain, if it's true, why everyone we have      23      talked to so far in the SORA unit has said, no one asked us      24      anything about our views of the proposed SORA 2021?      25     A. I was not involved in those discussions.</p>	<p style="text-align: center;">Page 34</p> <p>1       Q. All right. If that's true, would that strike you as a      2       break with normal practice within the government relations      3       office?      4     A. Those discussions are had on a case by case basis. And we      5       are talking about hypotheticals and I can't speak as to why      6       that happened.      7     Q. Okay. Did you ever talk to Lieutenant Fitzgerald about his      8       views about the bill?      9     A. I'm sure we had discussions. I regrettably don't recall      10      the specifics of those.      11     Q. Okay. Did anyone, other than the internal legal team, to      12      your knowledge, offer advise about what should or shouldn't      13      be in the SORA 2021 that was passed?      14     A. I'm sorry. I was not part of those discussions.      15     Q. Did you ever have conversations with Lieutenant Fitzgerald      16      about the legislative work group that was meeting during      17      that period, or prior to that period of time?      18     A. I knew he was involved in something. I was not part of it.      19     Q. Okay. Were you aware that in the late winter of 2020, that      20      the legislative work group negotiations had broken down, I      21      think actually would have been in the late fall of 2019,      22      were you aware that those had stopped?      23     A. I know that at some point I believe the work group stopped      24      happening. I was not involved.      25     Q. And did you hear anything as to why it stopped happening?</p>
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<p>1     <b>A.</b> No.</p> <p>2     Q. Okay. You don't know whether that came from the Michigan</p> <p>3         Department of State Police?</p> <p>4     <b>A.</b> That it dissolved?</p> <p>5     Q. Yes.</p> <p>6     <b>A.</b> No.</p> <p>7     Q. Were you aware that after it dissolved, that the plaintiffs</p> <p>8         had to go back to court, and in February of 2020, that the</p> <p>9         court held much of the old SORA to be unconstitutional?</p> <p>10    <b>A.</b> I know there were some court rulings. I don't recall them</p> <p>11         specifically.</p> <p>12    Q. Okay. And then did you play any role, in 2020, did you</p> <p>13         have anything to do with either the implementation of SORA</p> <p>14         or with anything to do with the pending bill?</p> <p>15    <b>A.</b> No.</p> <p>16    Q. Okay. Are you aware that the court finally entered an</p> <p>17         opinion and order that was going to enjoin SORA, and I</p> <p>18         believe that was entered, let's see, in February of 2020.</p> <p>19    Was there awareness within governmental relations that SORA</p> <p>20         was going to be enjoined?</p> <p>21    <b>A.</b> I was aware of some sort of court ruling. I'm not familiar</p> <p>22         with the specifics.</p> <p>23    Q. Okay. Why do you think it was that the legislature was</p> <p>24         unable to pass an amendment to SORA from 2016 to 2021?</p> <p>25    MR. JAMISON: Objection, lack of foundation.</p>	<p>1     Q. (Continuing by Mr. Reingold:) If you know.</p> <p>2     <b>A.</b> I don't.</p> <p>3     Q. Okay. Did you ever hear any talk about the political</p> <p>4         consequences of changes to SORA?</p> <p>5     <b>A.</b> I'm confused with the question.</p> <p>6     Q. Did you ever hear legislators, or legislative aides, or</p> <p>7         people in the governor's office talk about the political</p> <p>8         risks of changing SORA?</p> <p>9     <b>A.</b> No. I was not involved in those discussions.</p> <p>10    Q. Do you agree that the person I should be talking today is</p> <p>11         Lieutenant Fitzgerald, is he the one who would be able to</p> <p>12         answer all of these questions directly?</p> <p>13    MR. JAMISON: Objection, lack of foundation.</p> <p>14    Q. (Continuing by Mr. Reingold:) To your knowledge.</p> <p>15    <b>A.</b> I'm sorry, sir. I couldn't hear you.</p> <p>16    Q. Yes. Sorry. My microphone sometimes cuts out. I was</p> <p>17         asking if the person who could answer all of my questions</p> <p>18         today would be Lieutenant Fitzgerald?</p> <p>19    <b>A.</b> I don't know. I know that he knows more, he was involved</p> <p>20         more than I.</p> <p>21    Q. All right. And is he, he's no longer with the department;</p> <p>22         is that right?</p> <p>23    <b>A.</b> Correct.</p> <p>24    Q. Were you aware that the court also enjoined an enforcement</p> <p>25         of SORA due to COVID?</p>
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<p>1     <b>A.</b> Can you be more specific?</p> <p>2     Q. Yes. After COVID hit, there were both federal and state</p> <p>3         orders eluding people's ability to travel, either ordering</p> <p>4         or suggesting that people stay in their houses, and as a</p> <p>5         result, the federal court suspended the reporting</p> <p>6         requirements under SORA. Were you aware of that?</p> <p>7     <b>A.</b> It sounds familiar, but not something that I would have</p> <p>8         been involved in.</p> <p>9     Q. Okay. So you had absolutely nothing to do with the bill</p> <p>10         that wound up becoming SORA 2021?</p> <p>11    <b>A.</b> Correct.</p> <p>12    Q. Did you, do you know whether or not the Michigan Department</p> <p>13         of State Police filed any position statement with the</p> <p>14         senate judiciary committee?</p> <p>15    <b>A.</b> I do not know about that committee.</p> <p>16    Q. Okay. So you wouldn't know who worked on it, or who wrote</p> <p>17         it, or anything like that?</p> <p>18    MR. JAMISON: Objection. It's vague in terms of</p> <p>19         what "it" is.</p> <p>20    Q. (Continuing by Mr. Reingold:) If there was a written</p> <p>21         statement given to the senate judiciary committee, you</p> <p>22         wouldn't know who wrote it, or who okayed it, or anything</p> <p>23         like that?</p> <p>24    <b>A.</b> To the senate judiciary committee?</p> <p>25    Q. Yes.</p>	<p>1     <b>A.</b> No.</p> <p>2     Q. Okay. What about any other position statements to any</p> <p>3         other legislative body?</p> <p>4     <b>A.</b> We --</p> <p>5         MR. JAMISON: Paul, if I can interject to say. Is</p> <p>6         there a statement that's been made to the senate judiciary</p> <p>7         committee, is it something that you could bring up to show</p> <p>8         her?</p> <p>9         MR. REINGOLD: Yes. I wanted to ask about it</p> <p>10         first. I'll get to it in a minute.</p> <p>11    MR. JAMISON: Got it.</p> <p>12    Q. (Continuing by Mr. Reingold:) You can go ahead. You were</p> <p>13         answering. You were just saying you knew something.</p> <p>14    <b>A.</b> You said from any other committee.</p> <p>15    Q. Yes. To any other committee or any other legislative body</p> <p>16         or unit.</p> <p>17    <b>A.</b> We submitted written testimony to the House committee I</p> <p>18         believe.</p> <p>19    Q. Okay. And was this, and does the House committee precede</p> <p>20         the Senate committee, do you remember?</p> <p>21    <b>A.</b> It would have, because it was a House bill.</p> <p>22    Q. It was a House bill. Yeah, I think I misspoke when I said</p> <p>23         Senate, I meant House. Yes. Let's, I'll bring that up.</p> <p>24         This may take a minute, because I have a new laptop and I</p> <p>25         never get things right.</p>
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<p>1 Q. Well, if the governor's office says, we want to take it 2 out, we agree with the department, we want to take it out, 3 but we want it to be a transparent process, and if she 4 wants to come in and testify, speak in front of the 5 department, that's okay with us. Would you let her go and 6 speak?</p> <p>7 A. Sure.</p> <p>8 Q. If the governor's office says, no, she's contradicting with 9 what we and the department want, you want it out, you want 10 it out, tell her not to testify. Do you have to tell her 11 not to testify or do you let her testify?</p> <p>12 A. No. I would tell her not to testify.</p> <p>13 Q. And that's because the governor's office has told you to?</p> <p>14 A. Yes.</p> <p>15 Q. So it sounds like in the end, the Department of State 16 Police doesn't really support or weigh against anything, 17 it's what the governor's office tells them to do; is that 18 fair to say?</p> <p>19 A. No.</p> <p>20 Q. But if the Governor's office opposes the position of the 21 Department of State Police, how do you deal with that?</p> <p>22 A. It's done on a case by case basis.</p> <p>23 Q. So sometimes the governor says, we don't want you to 24 testify as follows, but somebody in the department says, we 25 want to testify as follows, and then you do?</p>	<p>1 A. No.</p> <p>2 Q. So you are bound by what the governor tells you?</p> <p>3 A. That's on a case by case basis.</p> <p>4 Q. Yeah. But in this hypothetical, the governor has said, no, 5 the department has says, yes, and you said you would not 6 have anyone go and testify?</p> <p>7 A. In this hypothetical, if they told us they would like us to 8 not testify, no, we would not testify.</p> <p>9 Q. So what that means is, everything in -- correct me if I'm 10 wrong. But I assume what this means is, before this letter 11 went to the House Judiciary Committee, it was also screened 12 by the governor's office; is that right?</p> <p>13 A. To the best of my knowledge, yes.</p> <p>14 Q. And it would have been approved or edited by the governor's 15 office if they were unhappy with parts of it?</p> <p>16 A. I don't know if it was edited. I know it got sent, so it 17 must have been approved.</p> <p>18 Q. Okay. And is that true with almost all communications 19 affecting substantive policy that states the department's 20 position, that is that it is cleared through the governor's 21 office before it becomes part of an official legislative 22 record?</p> <p>23 A. I can't say. I don't like the word always. It's on a case 24 by case basis.</p> <p>25 Q. Is that typically the way it works?</p>
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<p>1 A. Sure.</p> <p>2 Q. What's the chain of command at the top of the Michigan 3 State Police. We know that there is a director. What are 4 the other positions below that?</p> <p>5 A. Deputy director.</p> <p>6 Q. And below that?</p> <p>7 A. Assistant deputy directors.</p> <p>8 Q. And how many assistant deputy directors are there?</p> <p>9 A. There are four.</p> <p>10 Q. And are those divided up by geographic area or by 11 substantive areas?</p> <p>12 A. By bureau.</p> <p>13 Q. Say again.</p> <p>14 A. By bureau.</p> <p>15 Q. By bureau. Okay. So there are four major bureaus in the 16 department; is that right?</p> <p>17 A. No. Hang on. There are three.</p> <p>18 Q. But there are four deputy directors?</p> <p>19 A. No. There are three deputy directors.</p> <p>20 Q. Three. Okay. Is it just one assistant director?</p> <p>21 A. I think the language is probably a little bit different.</p> <p>22 Q. You said deputy director?</p> <p>23 A. There are three deputy directors.</p> <p>24 Q. Okay. And how are they divided up in terms of walls?</p> <p>25 A. By bureau.</p>	<p>1 Q. Okay. All right. So in making decisions about whether to 2 support a bill, or opposes a bill, or provisions of the 3 bill, does any of that get run by the director, either any 4 of the three deputy directors, or any of the three 5 assistant deputy directors?</p> <p>6 A. On the merits of a specific bill?</p> <p>7 Q. Yes.</p> <p>8 A. A case by case basis.</p> <p>9 Q. Is there ever a case where somebody at that level has not 10 given approval for the passage of a new bill that affects 11 the department?</p> <p>12 A. Can you explain that a little bit more, please.</p> <p>13 Q. Yeah. I'm asking if there is a new bill introduced in the 14 House or Senate, and it's going to passed, and it has an 15 affect on the Michigan Department of State Police, is it 16 typical that one of those seven people will have been on 17 it, have read it, and have approved it?</p> <p>18 A. So they wouldn't necessarily give an approval, but if they 19 are one of the impacted areas that we talked about earlier, 20 they might be contacted for their feedback.</p> <p>21 Q. Okay. And if a bill is in progress, as SORA was, and there 22 are provisions that are going to come out, something major, 23 like the school exclusion zones, is that something that 24 typically, something vague like that, is that something 25 that would make it to the, one of the seven people at the</p>
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<p>1 top?</p> <p>2 A. I don't know if they were involved in those discussions.</p> <p>3 Q. I didn't ask if they were involved. I asked, if that's the</p> <p>4 kind of problem that typically kind of change in a bill</p> <p>5 that typically would draw their attention and be brought to</p> <p>6 them?</p> <p>7 A. I actually don't know.</p> <p>8 Q. So in this case, if you were shepherding the new SORA</p> <p>9 through, and the governor's office said, we want to strike</p> <p>10 out the school exclusion zones, is that something that you</p> <p>11 would want approval on by one of those seven people before</p> <p>12 saying to the governor, we can live with that?</p> <p>13 A. No, not necessarily.</p> <p>14 Q. And how would you make that decision?</p> <p>15 A. I would consult with the people that it actually impacts.</p> <p>16 Q. And if the people it impacts say, we want to keep it, would</p> <p>17 you go over their heads to one of the seven above to say,</p> <p>18 governor wants a change, our people don't, where do you</p> <p>19 come down on this?</p> <p>20 A. That would be on a case by case basis.</p> <p>21 Q. And in this case, would you feel the need to do it?</p> <p>22 A. I would feel the need to loop them in on the discussion.</p> <p>23 But as far as decisions, it would depend on their</p> <p>24 involvement.</p> <p>25 Q. Okay. Why doesn't someone usually sign a submission letter</p>	<p>1 like this one?</p> <p>2 A. I don't know. We don't typically -- I don't want to say</p> <p>3 typically. It's not often that we submit written</p> <p>4 testimony.</p> <p>5 Q. Is that because you're more likely to do --</p> <p>6 (INTERNET INTERFERENCE)</p> <p>7 Q. (Continuing by Mr. Reingold:) And what percentage of the</p> <p>8 bills that affect the Michigan State Police do you present</p> <p>9 live testimony?</p> <p>10 A. I don't know the nature of that off the top of my head.</p> <p>11 Q. Can you think of bills where you do have live testimony?</p> <p>12 A. Yes.</p> <p>13 Q. And can you give some examples?</p> <p>14 A. We provided live testimony on some lien stuff, some vehicle</p> <p>15 registrations, some drug recognition experts, maybe some</p> <p>16 penalty bills.</p> <p>17 Q. How about speed limits?</p> <p>18 A. Yes.</p> <p>19 Q. But not on SORA?</p> <p>20 A. I was not involved in that. To the best of my knowledge,</p> <p>21 no.</p> <p>22 Q. Are you aware that the State Attorney General also</p> <p>23 submitted written testimony and recommendations on SORA</p> <p>24 2021?</p> <p>25 A. No.</p>
<p style="text-align: center;">Page 49</p> <p>1 Q. Have any of the bills that affected the Michigan Department</p> <p>2 of State Police, in the time that you have been there, been</p> <p>3 passed in lame-duck section other than SORA?</p> <p>4 A. I'm sorry. Did you said passed in lame-duck?</p> <p>5 Q. Yes.</p> <p>6 A. I would have to look. I'm sorry.</p> <p>7 Q. Do you recall any that were ever passed in lame-duck?</p> <p>8 A. Not off the top of my head. But I know there have been</p> <p>9 some lame-duck.</p> <p>10 Q. But none that you can remember?</p> <p>11 A. No. Not off the top of my head. I don't know bill numbers</p> <p>12 off the top of my head.</p> <p>13 Q. Okay. In your own unit, do you view yourself as a policy</p> <p>14 maker?</p> <p>15 A. No.</p> <p>16 Q. You simply make recommendations to the governor?</p> <p>17 A. Yes.</p> <p>18 Q. Whom do you consider to be policy makers in the sense of</p> <p>19 making the actual decision as to what it is that the</p> <p>20 department wants?</p> <p>21 A. It's my understanding it's on a case by case basis.</p> <p>22 Q. And on a case by case basis, how do you determine who that</p> <p>23 person is, who's going to set policy for the department?</p> <p>24 A. I don't make policy for the department.</p> <p>25 Q. But I'm asking, you have to make the recommendations to the</p>	<p style="text-align: center;">Page 50</p> <p>1 governor, and how do you decide whose opinion to give?</p> <p>2 A. You keep saying policy. Are you talking about like</p> <p>3 legislative positions?</p> <p>4 Q. Yes. Exactly, that's exactly what I mean. Legislative</p> <p>5 positions, yes.</p> <p>6 A. I'm sorry. Can you ask the question again?</p> <p>7 Q. Yes. How do you decide who it is who's making the</p> <p>8 decisions about legislative positions?</p> <p>9 A. That is done on a case by case basis.</p> <p>10 Q. So you go to the SORA unit, the SORA unit, and talk to the</p> <p>11 two most knowledgeable people, and they are polls apart,</p> <p>12 one is a yes and one is a no. Is that what you report to</p> <p>13 the governor?</p> <p>14 A. On a case by case basis.</p> <p>15 Q. In this case.</p> <p>16 A. In your hypothetical case?</p> <p>17 Q. Yeah. Let's assume you are shepherding SORA through, and</p> <p>18 you go to SORA, you go to the SORA unit, and they say,</p> <p>19 we're all for it, but one says, and one says, we are</p> <p>20 totally against it. And you go to legal, and somebody</p> <p>21 says, I'm all for it, and we are split down the middle</p> <p>22 here, and the other half is all against it.</p> <p>23 How do you decide whose legislative position is the</p> <p>24 one to report to the governor?</p> <p>25 A. I would say that continued discussions need to be had.</p>

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13 (Pages 49 to 52)

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1 Q. And then you hope that eventually there would be consensus  
2 or a compromise?  
3 A. Yes.  
4 Q. And that would be the legislative position?  
5 A. Yes.  
6 Q. And if no one in the SORA unit gets consulted, then the  
7 decision is going to get made by legal; is that right?  
8 A. That would be on a case by case basis and who was looped  
9 in.  
10 Q. If someone is looped in, let's say one of the seven people  
11 at the top, and their opinion is different from those at  
12 the bottom who are most affected, does the, does the  
13 opinion of the one of the seven become the legislative  
14 position of the department?  
15 A. No. Like I said earlier, it's on a case by case basis, and  
16 some consensus is going to have to be figured out.  
17 Q. And does the figuring out of the consensus mean meetings  
18 among those who don't yet have consensus?  
19 A. It could.  
20 Q. So if you got one of the seven people saying, we think the  
21 policy, or all of the seven people thinking, we think the  
22 policy should be X, and the field people are saying, we  
23 disagree, we think policy should be Y, and you would expect  
24 that the two would get-together to hammer it out?  
25 MR. JAMISON: I'm going to object to the question

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1 as vague in terms of the phrase policy.  
2 Q. (Continuing by Mr. Reingold:) You can answer.  
3 A. I wouldn't use the word policy.  
4 Q. I'll say, every time I use policy, I mean legislative  
5 position.  
6 MR. JAMISON: For purposes of clarity, can you just  
7 use that phrase rather than policy.  
8 MR. REINGOLD: I keep trying to and I apologize,  
9 the three syllables instead of the seven syllables.  
10 Q. (Continuing by Mr. Reingold:) So I'll ask the question  
11 again. If you have, if the fundamental disagree is between  
12 the people at the top, and the people at the bottom, or  
13 well, you know, the high level folks and low level folks on  
14 legislative position, and you need to reach a consensus,  
15 would you expect those people to meet to hash it out  
16 together?  
17 A. In a hypothetical situation on a bill that I was dealing  
18 with?  
19 Q. Yes.  
20 A. Sure.  
21 MR. REINGOLD: I have no further questions.  
22 MR. JAMISON: I have no questions.  
23 MR. REINGOLD: All right. Any other business  
24 before we part? I would like to order the transcripts and  
25 get the contact information for the court reporter.

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1 MR. JAMISON: Court reporter, any question for Ms.  
2 McGhee or are we all set?  
3 REPORTER: She is all set.  
4 MR. JAMISON: We just want a searchable copy PDF of  
5 the transcript.  
6 MR. REINGOLD: We would like to get, for the  
7 plaintiffs, a mini, a full size, a PTX, and a Word.  
8 REPORTER: Thank you very much.

9 (WHEREUPON THE DEPOSITION CONCLUDED AT 10:27 A.M.)

10 C E R T I F I C A T E  
11 STATE OF MICHIGAN]  
12 } ss:  
13 COUNTY OF MACOMB ]  
14  
15 I, Amanda L. Grosshans, Certified Court Reporter,  
16 Registered Professional Reporter, a notary public in and for the  
17 aforesaid county and state, do hereby certify that the witness,  
18 Nicole McGhee on June 13, 2023 was duly sworn by me prior to the  
19 taking of testimony as to the truth of the matters attested to  
20 and contained therein, that the testimony of said witness was  
21 taken by me in machine shorthand and was thereafter reduced to  
22 typewritten form by me or under my direction and supervision,  
23 that the foregoing transcript is a true and accurate record of  
24 the testimony given to the best of my understanding and ability.  
25 I further certify that I am neither counsel for, related  
to, nor employed by any of the parties to the action in which  
this proceeding was taken; and, further, that I am not a  
relative or employee of any attorney or counsel employed by the  
parties hereto, nor financially interested, or otherwise, in the  
outcome of this action; and that I have no contract with the  
parties, attorneys, or persons with an interest in the action  
that affects or has a substantial tendency to affect  
impartiality, that requires me to relinquish control of an  
original deposition transcription or copies of the transcript  
attorney, or that requires me to provide any service not made  
available to all parties to the action.

26 I agree that I nor any person, attorney, paralegal, or  
27 expert witness may make, copy, and/or distribute to others for  
28 future sales, monetary gain, or any other purpose, a transcript  
29 and/or video without paying Tri-County Court Reporters the  
30 ordinary and customary charges for any and all additional  
transcripts.

  
Amanda L. Grosshans, CSR 3853  
Notary Public

31 My commission expires: 9/20/2023  
32 56 pages transcribe on 6/27/2023

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14 (Pages 53 to 56)